

1 SEYFARTH SHAW LLP  
Candice Zee (SBN 227453)  
2 czee@seyfarth.com  
Elizabeth M. Levy (SBN 268926)  
3 emlevy@seyfarth.com  
2029 Century Park East, Suite 3500  
4 Los Angeles, California 90067-3021  
Telephone: (310) 277-7200  
5 Facsimile: (310) 201-5219

6 Attorneys for Defendant  
7 ALLIANT TECHSYSTEMS INC.

8 WILLIAM M. CROSBY (SBN: 49357)  
13522 Newport Avenue, Suite 201  
9 Tustin, CA 92780-3707  
Telephone: (714) 544-2493  
10 Facsimile: (714) 544-2497  
Email: wcrosby@williamcrosbylaw.com

11 Attorney for Plaintiff  
12 JAMES STOSSEL

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14  
15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA  
17

18 James Stossel,  
19 Plaintiff,  
20 v.  
21 Alliant Techsystems Inc., a Delaware  
22 corporation; Does I through X inclusive,  
23 Defendants.

Case No. SACV15-738 JLS (JCGx)

**ORDER GRANTING STIPULATED  
PROTECTIVE ORDER**

*[Filed concurrently with Stipulated  
Protective Order]*

Complaint Filed: February 18, 2015

On September 23, 2015 Plaintiff James Stossel (“Plaintiff”) and Defendant Alliant Techsystems, Inc. (“Defendant”) (collectively, the “Parties”) filed a Joint Stipulated Protective Order regarding the production of confidential information. Having considered the contents of the Joint Stipulated Protective Order and GOOD CAUSE APPEARING THEREFOR, the Joint Stipulation is hereby approved.

## **ORDER**

### **PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, Plaintiff James Stossel (“Plaintiff”) and Defendant Alliant Techsystems, Inc. (“Defendant”) (collectively, the “Parties”) hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The Parties further acknowledge that, as set forth in Section 12.3, below, this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 and the Court’s May 12, 2015 Standing Order (Dkt. No. 11) set forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

### **2. DEFINITIONS**

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under

1 Federal Rule of Civil Procedure 26(c).

2 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel  
3 (as well as their support staff).

4 2.4 Designating Party: a Party or Non-Party that designates information or  
5 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

6 2.5 Disclosure or Discovery Material: all items or information, regardless of the  
7 medium or manner in which it is generated, stored, or maintained (including, among  
8 other things, testimony, transcripts, and tangible things), that are produced or generated in  
9 disclosures or responses to discovery in this matter.

10 2.6 Expert: a person with specialized knowledge or experience in a matter  
11 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
12 expert witness or as a consultant in this action.

13 2.7 House Counsel: attorneys who are employees of a party to this action.  
14 House Counsel does not include Outside Counsel of Record or any other outside counsel.

15 2.8 Non-Party: any natural person, partnership, corporation, association, or  
16 other legal entity not named as a Party to this action.

17 2.9 Outside Counsel of Record: attorneys who are not employees of a party to  
18 this action but are retained to represent or advise a party to this action and have appeared  
19 in this action on behalf of that party or are affiliated with a law firm which has appeared  
20 on behalf of that party.

21 2.10 Party: any party to this action, including all of its officers, directors,  
22 employees, consultants, retained experts, and Outside Counsel of Record (and their  
23 support staffs).

24 2.11 Producing Party: a Party or Non-Party that produces Disclosure or  
25 Discovery Material in this action.

26 2.12 Professional Vendors: persons or entities that provide litigation support  
27 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
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demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.13 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

### **3. SCOPE**

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

### **4. DURATION**

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals,

rehearings, remands, trials, or reviews of this action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

## **5. DESIGNATING PROTECTED MATERIAL**

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify – so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case development process or to impose unnecessary expenses and burdens on other parties) expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend "CONFIDENTIAL" to each page that contains protected material. If only a portion or portions of the material on a page qualifies for

1 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,  
2 by making appropriate markings in the margins).

3 A Party or Non-Party that makes original documents or materials available for  
4 inspection need not designate them for protection until after the inspecting Party has  
5 indicated which material it would like copied and produced. During the inspection and  
6 before the designation, all of the material made available for inspection shall be deemed  
7 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants  
8 copied and produced, the Producing Party must determine which documents, or portions  
9 thereof, qualify for protection under this Order. Then, before producing the specified  
10 documents, the Producing Party must affix the “CONFIDENTIAL” legend to each page  
11 that contains Protected Material. If only a portion or portions of the material on a page  
12 qualifies for protection, the Producing Party also must clearly identify the protected  
13 portion(s) (e.g., by making appropriate markings in the margins).

14 (b) for testimony given in deposition or in other pretrial or trial proceedings, that  
15 the Designating Party identify on the record, before the close of the deposition, hearing,  
16 or other proceeding, all protected testimony.

17 (c) for information produced in some form other than documentary and for any  
18 other tangible items, that the Producing Party affix in a prominent place on the exterior of  
19 the container or containers in which the information or item is stored the legend  
20 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant  
21 protection, the Producing Party, to the extent practicable, shall identify the protected  
22 portion(s).

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure  
24 to designate qualified information or items does not, standing alone, waive the  
25 Designating Party’s right to secure protection under this Order for such material. Upon  
26 timely correction of a designation, the Receiving Party must make reasonable efforts to  
27 assure that the material is treated in accordance with the provisions of this Order.  
28

1     **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2           6.1     Timing of Challenges. Any Party or Non-Party may challenge a designation  
3 of confidentiality at any time. Unless a prompt challenge to a Designating Party's  
4 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,  
5 unnecessary economic burdens, or a significant disruption or delay of the litigation, a  
6 Party does not waive its right to challenge a confidentiality designation by electing not to  
7 mount a challenge promptly after the original designation is disclosed.

8           6.2     Meet and Confer. The Challenging Party shall initiate the dispute resolution  
9 process by providing written notice of each designation it is challenging and describing  
10 the basis for each challenge. To avoid ambiguity as to whether a challenge has been  
11 made, the written notice must recite that the challenge to confidentiality is being made in  
12 accordance with this specific paragraph of the Protective Order. The Parties shall attempt  
13 to resolve each challenge in good faith and must begin the process by conferring directly  
14 (in voice to voice dialogue; other forms of communication are not sufficient) within 14  
15 days of the date of service of notice. In conferring, the Challenging Party must explain  
16 the basis for its belief that the confidentiality designation was not proper and must give  
17 the Designating Party an opportunity to review the designated material, to reconsider the  
18 circumstances, and, if no change in designation is offered, to explain the basis for the  
19 chosen designation. A Challenging Party may proceed to the next stage of the challenge  
20 process only if it has engaged in this meet and confer process first or establishes that the  
21 Designating Party is unwilling to participate in the meet and confer process in a timely  
22 manner.

23           6.3     Judicial Intervention. If the Parties cannot resolve a challenge without court  
24 intervention, the Designating Party shall file and serve a motion to retain confidentiality  
25 under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5.1, if applicable)  
26 within 21 days of the initial notice of challenge or within 14 days of the Parties agreeing  
27 that the meet and confer process will not resolve their dispute, whichever is earlier. Each  
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1 such motion must be accompanied by a competent declaration affirming that the movant  
2 has complied with the meet and confer requirements imposed in the preceding paragraph.  
3 Failure by the Designating Party to make such a motion including the required  
4 declaration within 21 days (or 14 days, if applicable) shall automatically waive the  
5 confidentiality designation for each challenged designation. In addition, the Challenging  
6 Party may file a motion challenging a confidentiality designation at any time if there is  
7 good cause for doing so, including a challenge to the designation of a deposition  
8 transcript or any portions thereof. Any motion brought pursuant to this provision must be  
9 accompanied by a competent declaration affirming that the movant has complied with the  
10 meet and confer requirements imposed by the preceding paragraph.

11 6.4 The burden of persuasion in any such challenge proceeding shall be on the  
12 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to  
13 harass or impose unnecessary expenses and burdens on other parties) may expose the  
14 Challenging Party to sanctions. Unless the Designating Party has waived the  
15 confidentiality designation by failing to file a motion to retain confidentiality as described  
16 above, all parties shall continue to afford the material in question the level of protection  
17 to which it is entitled under the Producing Party's designation until the court rules on the  
18 challenge.

## 19 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

20 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
21 disclosed or produced by another Party or by a Non-Party in connection with this case  
22 only for prosecuting, defending, or attempting to settle this litigation. Such Protected  
23 Material may be disclosed only to the categories of persons and under the conditions  
24 described in this Order. When the litigation has been terminated, a Receiving Party must  
25 comply with the provisions of section 13 below (FINAL DISPOSITION).

26 Protected Material must be stored and maintained by a Receiving Party at a  
27 location and in a secure manner that ensures that access is limited to the persons  
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1 authorized under this Order.

2 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
3 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
4 may disclose any information or item designated “CONFIDENTIAL” only to:

5 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as  
6 employees of said Outside Counsel of Record to whom it is reasonably necessary to  
7 disclose the information for this litigation and who have signed the “Acknowledgment  
8 and Agreement to Be Bound” that is attached hereto as Exhibit A;

9 (b) the officers, directors, and employees (including House Counsel) of the  
10 Receiving Party to whom disclosure is reasonably necessary for this litigation and who  
11 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

12 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
13 reasonably necessary for this litigation and who have signed the “Acknowledgment and  
14 Agreement to Be Bound” (Exhibit A);

15 (d) the court and its personnel;

16 (e) court reporters and their staff, professional jury or trial consultants, mock  
17 jurors, and Professional Vendors to whom disclosure is reasonably necessary for this  
18 litigation and who have signed the “Acknowledgment and Agreement to Be Bound”  
19 (Exhibit A);

20 (f) during their depositions, witnesses in the action to whom disclosure is  
21 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
22 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the  
23 court. Pages of transcribed deposition testimony or exhibits to depositions that reveal  
24 Protected Material must be separately bound by the court reporter and may not be  
25 disclosed to anyone except as permitted under this Stipulated Protective Order.

26 (g) the author or recipient of a document containing the information or a custodian  
27 or other person who otherwise possessed or knew the information.  
28

1 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**  
 2 **OTHER LITIGATION**

3 If a Party is served with a subpoena or a court order issued in other litigation that  
 4 compels disclosure of any information or items designated in this action as  
 5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall  
 7 include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to issue  
 9 in the other litigation that some or all of the material covered by the subpoena or order is  
 10 subject to this Protective Order. Such notification shall include a copy of this Stipulated  
 11 Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
 13 Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with the  
 15 subpoena or court order shall not produce any information designated in this action as  
 16 “CONFIDENTIAL” before a determination by the court from which the subpoena or  
 17 order issued, unless the Party has obtained the Designating Party’s permission. The  
 18 Designating Party shall bear the burden and expense of seeking protection in that court of  
 19 its confidential material – and nothing in these provisions should be construed as  
 20 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive  
 21 from another court.

22 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
 23 **PRODUCED IN THIS LITIGATION**

24 (a) The terms of this Order are applicable to information produced by a Non-Party  
 25 in this action and designated as “CONFIDENTIAL.” Such information produced by  
 26 Non-Parties in connection with this litigation is protected by the remedies and relief  
 27 provided by this Order. Nothing in these provisions should be construed as prohibiting a  
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1 Non-Party from seeking additional protections.

2 (b) In the event that a Party is required, by a valid discovery request, to produce a  
3 Non-Party's confidential information in its possession, and the Party is subject to an  
4 agreement with the Non-Party not to produce the Non-Party's confidential information,  
5 then the Party shall:

6 (1) promptly notify in writing the Requesting Party and the Non-Party that  
7 some or all of the information requested is subject to a confidentiality agreement  
8 with a Non-Party;

9 (2) promptly provide the Non-Party with a copy of the Stipulated Protective  
10 Order in this litigation, the relevant discovery request(s), and a reasonably specific  
11 description of the information requested; and

12 (3) make the information requested available for inspection by the Non-  
13 Party.

14 (c) If the Non-Party fails to object or seek a protective order from this court  
15 within 14 days of receiving the notice and accompanying information, the Receiving  
16 Party may produce the Non-Party's confidential information responsive to the discovery  
17 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not  
18 produce any information in its possession or control that is subject to the confidentiality  
19 agreement with the Non-Party before a determination by the court. Absent a court order  
20 to the contrary, the Non-Party shall bear the burden and expense of seeking protection in  
21 this court of its Protected Material.

22 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

23 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
24 Protected Material to any person or in any circumstance not authorized under this  
25 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
26 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
27 all unauthorized copies of the Protected Material, (c) inform the person or persons to  
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1 whom unauthorized disclosures were made of all the terms of this Order, and (d) request  
2 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”  
3 that is attached hereto as Exhibit A.

4  
5  
6 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
7 **PROTECTED MATERIAL**

8 When a Producing Party gives notice to Receiving Parties that certain inadvertently  
9 produced material is subject to a claim of privilege or other protection, the obligations of  
10 the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).  
11 This provision is not intended to modify whatever procedure may established in an e-  
12 discovery order that provides for production without prior privilege review. Pursuant to  
13 Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the  
14 effect of disclosure of a communication or information covered by the attorney-client  
15 privilege or work product protection, the parties may incorporate their agreement in the  
16 stipulated protective order submitted to the court.

17 **12. MISCELLANEOUS**

18 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
19 person to seek its modification by the court in the future.

20 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
21 Protective Order no Party waives any right it o therwise would have to object to  
22 disclosing or producing any information or item on any ground not addressed in this  
23 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground  
24 to use in evidence of any of the material covered by this Protective Order.

25 12.3 Filing Protected Material. Without written permission from the Designating  
26 Party or a court order secured after appropriate notice to all interested persons, a Party  
27 may not file in the public record in this action any Protected Material. A Party that seeks  
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1 to file under seal any Protected Material must comply with Civil Local Rule 79-5.1 and  
 2 the Court's May 12, 2015 Standing Order (Dkt. No. 11). Protected Material may only be  
 3 filed under seal pursuant to a court order authorizing the sealing of the specific Protected  
 4 Material at issue. Pursuant to Civil Local Rule 79-5.1 and the Court's Standing Order  
 5 dated May 12, 2015 (Dkt. No. 11), a sealing order will issue only upon a request  
 6 establishing that the Protected Material at issue is privileged, protectable as a trade secret,  
 7 or otherwise entitled to protection under the law. If a Receiving Party's request to file  
 8 Protected Material under seal is denied by the court, then the Receiving Party may file the  
 9 information in the public record unless otherwise instructed by the court.

### 10 **13. FINAL DISPOSITION**

11 Within 60 days after the final disposition of this action, as defined in paragraph 4,  
 12 each Receiving Party must return all Protected Material to the Producing Party or destroy  
 13 such material. As used in this subdivision, "all Protected Material" includes all copies,  
 14 abstracts, compilations, summaries, and any other format reproducing or capturing any of  
 15 the Protected Material. Whether the Protected Material is returned or destroyed, the  
 16 Receiving Party must submit a written certification to the Producing Party (and, if not the  
 17 same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
 18 (by category, where appropriate) all the Protected Material that was returned or destroyed  
 19 and (2) affirms that the Receiving Party has not retained any copies, abstracts,  
 20 compilations, summaries or any other format reproducing or capturing any of the  
 21 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
 22 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
 23 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney  
 24 work product, and consultant and expert work product, even if such materials contain  
 25 Protected Material. Any such archival copies that contain or constitute Protected  
 26 Material remain subject to this Protective Order as set forth in Section 4 (DURATION).  
 27  
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## 1 EXHIBIT A

## 2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
 4 [print or type full address], declare under penalty of perjury that I have read in its entirety  
 5 and understand the Stipulated Protective Order that was issued by the United States  
 6 District Court for the Central District of California on [date] in the case of James Stossel  
 7 v. Alliant Techsystems Inc., SACV15-738 JLS (JCGx). I agree to comply with and to be  
 8 bound by all the terms of this Stipulated Protective Order and I understand and  
 9 acknowledge that failure to so comply could expose me to sanctions and punishment in  
 10 the nature of contempt. I solemnly promise that I will not disclose in any manner any  
 11 information or item that is subject to this Stipulated Protective Order to any person or  
 12 entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the  
 14 Central District of California for the purpose of enforcing the terms of this Stipulated  
 15 Protective Order, even if such enforcement proceedings occur after termination of this  
 16 action.

17 I hereby appoint \_\_\_\_\_ [print or type full name] of  
 18 \_\_\_\_\_ [print or type full address and telephone  
 19 number] as my California agent for service of process in connection with this action or  
 20 any proceedings related to enforcement of this Stipulated Protective Order.

21  
 22 Date: \_\_\_\_\_

23 City and State where sworn and signed: \_\_\_\_\_

24  
 25 Printed name: \_\_\_\_\_

26  
 27 Signature: \_\_\_\_\_